

BACKGROUND

By way of background, and before addressing the prior art rejections, Applicant wishes to reiterate that the present specification concerns the provision of access to content that is **restricted to a user by an application in the absence of control commands received by a service provider**. The control commands received by the service provider enable the application to grant user access to the otherwise restricted content. The control commands are delivered by the service provider in response to a profile or action of the user.

One embodiment described in the originally-filed specification is set forth on page 6, line 4 through page 7, line 2. When a disc 22 having content is loaded into a mobile phone, for example, the mobile phone connects with a service and the disc identification is sent to service 70, which may transmit control commands that comprise the entire playlist to be played from the content on disc 22. In that case, when the user inserts the disc 22, the mobile phone 10 receives the same playlist as everybody else for disc 22, but application program will play the list from beginning to end for the particular user. ... Thus, when a user inserts disc 22 and application begins running, the most current control commands are transmitted to the application program by the service, which responds by playing the appropriate current content from the disc 22. Service 70 may provide additional content in the form of advertisements, for example, that are displayed to the user on display 18 or played to the user between songs. ... **The advertisements may act as the control commands such that the listening to one or more advertisements may grant access to the playing of content from the disc 22.** These advertisements may be transmitted from the service 70. The playing of the advertisement then enables the application program to play one or more content portions from the disk 22. This embodiment provides an incentive to the user to play the advertisements that may be related or unrelated to the content portions.

In other words, an application is provided that **initially restricts user access to content**. In the example above, such content might be songs provided on a disc inserted into a mobile phone. Access to such content is then provided through the transmission of control commands to the application that is restricting access. In the above example, the service issues control

EXPEDITED PROCEDURE

commands to the application running on the mobile phone that grants access to the content and enables the user to listen to the songs provided on the disc. **In one embodiment, such control commands are generated through the playing of advertisements that function, through the generation of control commands to the application, to grant access to the songs.** Without the playing of such advertisements, and without application receiving such control commands, the user would not have access to the songs.

Therefore, **the playing of advertisements generates control commands to an application that grants access to content that is otherwise access-restricted by such application.** The playing of advertisements control an application that controls access to restricted content.

This background discussion is only presented to summarize different aspects of Applicant's disclosure, and should not be considered as limiting the claims in any way.

RESPONSE TO ARGUMENTS

The Office Action of October 31, 2007, states, in the "Response to Arguments" section, that "the control commands are considered to be generated upon the user playing the electronic advertising content because (as discussed by McDonnell et al. as modified by O'Hare et al., specifically O'Hare et al.) action of retrieving and viewing the content stored on the user's portable device is in itself issuing a control command to cause the device to present the content to the user. Therefore, disclosing the limitation of "[commands] ... that are generated upon the user playing the electronic advertising content ..."

In the claim rejections, Claims 1-34, in various combinations, are **again** rejected under 35 U.S.C. §103(a) as being unpatentable over McDonnell et al. (U.S. Patent Application Publication 2002/0177449) in view of O'Hare et al. (U.S. Patent Application Publication 2003/0104840) and further in view of either Lamkin et al. (U.S. Patent Application Publication 2004/0220926), or Donian et al. (U.S. Patent Application Publication 2004/0003398), or Ochiyama et al. (U.S. Patent Application Publication 2004/0031377) or a combination of the same.

Again, the O'Hare et al. reference is asserted to disclose the storing of content on a user's device and activating that content based upon a trigger from a received advertisement (page 2, paragraphs 0020-0022; page 3, paragraphs 0029-0030).

Applicant respectfully reiterates the discussion from the response that was filed on August 20, 2007, relating to the true meaning of page 2, paragraphs 0020-0022 and page 3, paragraphs 0029-0030 from O'Hare et al. A careful read of these sections of O'Hare et al., illustrates that it is the viewing of an advertisement itself that is triggered by a controller, and not that the viewing of the advertisement triggers control commands that enable an application to grant access to restricted content.

Furthermore, the assertion that O'Hare et al. teaches "activating content based upon a trigger from a received advertisement" fails to address Applicant's claim element "the electronic advertising content comprising **control commands** that are receivable from a party other than the user and **that are generated upon the user playing the electronic advertising content**, the **control commands enabling the electronic application to render the electronic content accessible to the user**."

In the "Response to Arguments" section, the focus is on the "action of retrieving and viewing the **content** stored on the user's portable device is in itself issuing a control command to cause the device to present the **content** to the user." However, again, such discussion conveniently omits the critical connection between the **advertising** content and the **control commands**. In O'Hare et al., the playing of advertising content does **not** function as control commands enabling the electronic application **to render the electronic content accessible** to the user, **as claimed**.

This fundamental difference between the **playing** of electronic advertising content **triggering** control commands, as set forth in the present claims as amended, on the one hand, and a **controller triggering** the display of advertising content as set forth in the O'Hare et al. reference, on the other hand, is precisely why one skilled in the art would not consider it obvious to incorporate the teaching of O'Hare et al. into McDonnell et al. to arrive at the claimed invention as asserted in the present Office Action. The continued reliance on O'Hare et al. as a

EXPEDITED PROCEDURE

secondary reference to McDonnell et al., and the continued reliance on page 2, paragraphs 0020-0022 and page 3, paragraphs 0029-0030 from O'Hare et al., as a means of teaching that which is lacking in McDonnell et al., and that which is set forth in the present claims, is representative of a failure to appreciate the totality of the present claims and a failure to appreciate the **control** aspect of the advertising content.

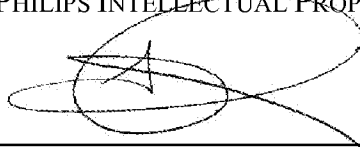
Simply stated, O'Hare et al. fails to teach or reasonably suggest the generation of control commands upon the playing of electronic advertisements that **grant access** to otherwise access-restricted content, **as claimed**. Applicant respectfully submits that this fundamental lack of teaching is why one skilled in the art would not consider the claimed invention to be obvious under 35 U.S.C. §103(a) in view of the combination of McDonnell et al. and O'Hare et al.

As the primary combination of McDonnell et al. and O'Hare et al. is used to reject the totality of claims 1-34 of the present application, and in view of the above remarks, it is believed that claims 1-34 are in condition for allowance. Passage of this case to allowance is earnestly solicited. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper, not already paid through an EFS-Web filing, may be charged to Deposit Account No. 50-3894. Any overpayment may be credited to Deposit Account No. 50-3894.

Respectfully submitted,

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

A handwritten signature in black ink, appearing to be 'H. Wolin', is written over a horizontal line.

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